

Proposed Local Counsel

Proposed Lead Counsel for Lead Plaintiff and the Class

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

MICHAEL MITCHELL, Individually And
On Behalf of All Others Similarly Situated,

Plaintiff,

VS.

PEGASUS WIRELESS CORPORATION,
JASPER KNABB, STEPHEN DURLAND
and ALEX TSAO.

Defendants.

) **Master File No.: 3-06-CV-6969 (MHP)**
)
) **CLASS ACTION**
)
) **STIPULATION AND [~~PROPOSED~~] ORDER**
) **APPOINTING LEAD PLAINTIFF AND**
) **APPROVING SELECTION OF LEAD**
) **COUNSEL**
)
) **Honorable Marilyn Hall Patel**
)
)
)
)
)

1 WHEREAS, Section 21D of the Private Securities Litigation Reform Act of 1995
2 (“PSLRA”) provides that in securities class actions, courts “shall appoint as lead plaintiff the
3 member or members of the purported plaintiff class that the court determines to be most capable of
4 adequately representing the interests of class members,” 15 U.S.C. § 78u-4(a)(3)(B)(i);

5 WHEREAS, in accordance with the PSLRA, the “most adequate plaintiff” is the movant who
6 “filed the complaint or made a motion in response,” “has the largest financial interest in the relief
7 sought by the class,” and “satisfies the requirements of Rule 23 of the Federal Rules of Civil
8 Procedure,” 15 U.S.C. § 78u-4(a)(3)(B)(iii)(I);

9 WHEREAS, courts have assessed a movant’s “financial interest” through an examination of
10 several factors including but not limited to: “(1) the number of shares purchased during the class
11 period; (2) the number of net shares purchased during the class period; (3) the total net funds
12 expended during the class period; and (4) the approximate losses suffered.” *Pirelli Armstrong Tire*
13 *Corp. v. LaBranche & Co., Inc.*, No. 03 Civ. 8264, 2004 WL 1179311, at *7 (S.D.N.Y. May 27,
14 2004) (quoting *Lax v. First Merchants Acceptance Corp.*, 1997 WL 461036, at *5 (N.D.Ill. Aug. 11,
15 1997));

16 WHEREAS, the Pournaras Group and the Vertical Group each timely moved for
17 appointment as Lead Plaintiff;

18 WHEREAS, the Pournaras Group estimated its total losses at \$1,174,677.61;

19 WHEREAS, the Vertical Group estimated its total losses at \$466,632.85;

20 WHEREAS, the Vertical Group, through counsel, has withdrawn its motion for appointment
21 as lead plaintiff (the Vertical Group is willing to serve as additional class representatives as
22 necessary);

23 WHEREAS, the Pournaras Group is the only remaining lead plaintiff movant, has the largest
24 financial interest of all movants, and has met the adequacy and typicality requirements of Rule 23;

25 WHEREAS, pursuant to 15 U.S.C. § 78u-4(a)(3)(B)(v), the lead plaintiff shall, subject to
26 Court approval, select and retain counsel to represent the Class and, Lead Plaintiff, the Pournaras
27

Group, has selected the law firm of Kahn Gauthier Swick, LLC ("KGS"), which has substantial experience in the prosecution of shareholder and securities class actions;

IT IS HEREBY ORDERED, the Pournaras Group is appointed Lead Plaintiff in the consolidated action, pursuant to Section 21(D)(a)(3)(B) of the Securities Exchange Act of 1934, 15 U.S.C. § 78u-4(a)(3)(B), as amended by the PSLRA; and it is further

ORDERED that the Court approves the selection of the law firm of KGS as Lead Counsel for the Class, pursuant to Section 21(D)(a)(3)(B) of the Securities Exchange Act of 1934, 15 U.S.C. § 78u-4(a)(3)(B), as amended by the PSLRA.

Dated: August ____, 2007

Respectfully submitted,

KAHN GAUTHIER SWICK, LLC

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*Proposed Lead Counsel for Lead Plaintiff
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Additional Counsel for Plaintiffs

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Additional Counsel for Plaintiffs

Proposed ~~THIS IS SO ORDERED~~

9/24/07

UNITED STATES DISTRICT JUDGE

STIPULATION AND [PROPOSED] ORDER APPOINTING LEAD PLAINTIFF AND APPROVING SELECTION OF LEAD COUNSEL
CASE NO: 3-06-CV-6969 MHP

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DATE